

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**SEAHORSE
CORPORATION & MARITIME
SHIPPING CORPORATION, SEAHORSE
*Petitioners,***

-versus-

**G.R. No. 84712
May 15, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION, PHILIPPINE
OVERSEAS EMPLOYMENT
ADMINISTRATION & ROMEO C.
SINGIAN,
*Respondents.***

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DECISION

GRÑO-AQUINO, J.:

The Petitioner Seeks a Review of the Decision of the NLRC in POEA Case No. (M) 84-12-1099, entitled "Romeo C. Singian vs. Seahorse Maritime Corporation and/or Seahorse Shipping Corporation, and Josefino P. Peralta," affirming that of the POEA which found that the complainant Romeo C. Singian was illegally dismissed as Chief Engineer of the vessel M/V "UNAMONTE" belonging to the petitioner, SEAHORSE MARITIME CORPORATION, and held both

the shipowner and its manning agent, petitioner SEAHORSE SHIPPING CORPORATION, solidarily liable to pay Singian's unpaid salary for the half-month period of September 1 to 14, 1984, as well as his salaries for the unexpired portion of his one-year employment contract.

The only issue in this case is whether or not Singian was illegally dismissed without cause and without due process.

The reasons stated by the master of the vessel, Josefino Peralta, for dismissing Singian and repatriating him were:

- "1. Being always under the influence of liquor/drunkenness;
- "2. Leaving the vessel during the day and returning only at night; repeatedly leaving the vessel even during working hours;
- "3. Insubordination; disobeying the Master when the Master ordered him to discuss the incident when he hit Robles;
- "4. Creating trouble by hitting a fellow crewmember (Robles)."
(p. 61, Rollo.)

The logbook of the vessel for September 1, 1984 contains the following entry made by Peralta himself, regarding a fight between Singian and another member of the crew:

"That at 2130 Hrs. — Romeo Singian creating trouble towards Wilfredo Robles hitting him on face and was immediately pacified by Wilfredo Brosas, messman and Catalino Gavilla, 2nd Mate,

"That at about 2200 Hrs. — I the Master Josefino Peralta had called the attention of both Singian and Robles but R. Singian turned down my order to talk to me and to have it pacify (sic). I still calmly decided that he (R. Singian) was just drunk so I did not give much weigh (sic) on that matter." (Exh. B, p. 30, Rollo.)

The logbook for September 14, 1984, the date when Singian disembarked from the vessel, contains the following entry made by Peralta also:

“That I, The Master, J. Peralta have noticed/observed for the past 4 days Ch. Eng. Singian was always under the influence of liquor. That he leaves during the day and return on board in the evening. He was always drunk without considering all his duties on board the vessel. That I have called his attention regarding this matter but to my dismay that I have decided to repatriate him to Manila with a cause of insubordination, drunkenness (sic), but I fear he will create again trouble and fearing lost (sic) of life to crew and myself.” (Exh. C, p. 31, Rollo.)

The seaman’s certificate (Annex D) which was handed to Singian by Peralta before Singian disembarked at Sluiskil, Holland, moments before the ship lifted anchor and headed for Bombay, India, shows the following entries therein:

1. that Singian embarked on March 13, 1984 and disembarked on September 14, 1984;
2. that his discharge was “with cause;” and
3. that he was “repatriated with cause.”

The POEA Administrator found that:

“Complainant was not informed of the reasons for his dismissal before or at the time he was disembarked; that instead, the Master deceived him into believing that he was merely being transferred to another vessel by showing him a telex. This is established by the letters of Vidad and Domingo and by the statement in the Master’s report to the effect that complainant was repatriated ‘secretly.’ It should be noted that Vidad and Domingo never retracted the portion of their letters regarding the fakeness of the telex.

“It cannot be overemphasized that the dismissal of an employee, in this case, a seaman, is no trifling matter; that the date, time and circumstances of the act/acts claimed to

constitute just cause/s for the dismissal should be stated; that the seaman should be informed of the causes for his dismissal, and given a chance to be heard; and that finally, the dismissal should be in accordance with the terms and conditions of the POEA Standard Format and the law and jurisprudence on the matter.” (p. 61, Rollo.)

The POEA concluded that Singian was dismissed without due process (Annex L) or, as found by the NLRC, “unceremoniously” (Annex N).

Singian was not informed of the cause or causes of his dismissal. He was not investigated nor given a chance to air his side. To top it all, his dismissal was shrouded in secrecy and executed, through deceit. A fake telex prepared by the Dutch representative of the shipowner was shown by Peralta to Singian to make him believe that he was being called home for reassignment to another vessel, but the truth was that no such summons had been received from the home office.

The Seaman’s Certificate that Peralta gave Singian did not specify the cause of his discharge.

The manner of dismissing Singian violated Article 277, Sec. 33(b) of the Labor Code which provides:

“(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just or authorized cause and without prejudice to the requirement of notice under Article 283 of this Code, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Department of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall

rest on the employer. The Secretary of Labor and Employment may suspend the effects of the termination pending resolution of the dispute in the event of a prima facie finding by the appropriate official of the Department of Labor and Employment before whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.”

However, the causes of Singian’s dismissal were not seriously controverted. The entries in the logbook of the vessel regarding the fight between Singian and Robles on September 1, 1984, as recorded by Peralta, showed that Singian was given to drunkenness, violent temper and insubordination. After his fight with Robles, he ignored Peralta’s invitation “to talk to me and to have it peacify” (sic). (p. 30, Rollo.)

The master’s charge, that Singian often neglected his duties in the vessel by absenting himself all day, and returning to the ship drunk at night, was not fabricated. They were not denied by Singian.

Singian’s companions signed an affidavit attesting to the truth of the master’s charges against Singian (Annex E, p. 33, Rollo). Although they apologized to Singian for having signed the statement, none of them alleged that the charges were trumped-up. One of them, R. Domingo, indirectly admitted the truth of the charges when he opined that they were not sufficient cause for Singian’s dismissal. In his letter to Singian, he said:

“Ang nakalagay sa affidavit ay sinasabing alis ka daw ng alis sa barko araw-gabi at hindi mo daw asikaso and Engine Department. Unbecoming ka daw. Naisip ko nga ay mababaw na dahilan ito para ikaw ay pauwiin. Wala namang masama kung ikaw man ay lumabas ng lumabas, natural lang sa marino ang lumabas, isa pa ay wala namang problema sa makina kahit ikaw ay lumabas. Wala naman tayong bad record o trouble sa Engine room, anytime na kailangan nila ang makina ay ready tayo, di ba? Kaya malabo ang ibinibintang sa iyo ni Capt. Peralta. Iyon nga ang affidavit na pinapirmahan ni Capt. Peralta sa amin, sabi nila Chief Mate ay nonsense daw iyon at hindi

sapat para pauwiin ang isang tao.” (p. 3, Exh. B. Singian’s Comment.)

Serious misconduct in the form of drunkenness and disorderly and violent behavior, habitual neglect of duty, and insubordination or willful disobedience of the lawful orders of his superior officer, are just causes for the dismissal of an employee (Art. 282, Labor Code).

The dismissal of Singian for those causes was lawful. But the very nature of those causes impelled Peralta to resort to duplicity in discharging Singian from his vessel. He feared that Singian might react violently if informed to his face that he was being discharged for cause. That was what Capt. Peralta meant when he wrote in the logbook: “I fear he will create again trouble and fearing lost (sic) of life to crew and myself” (Exh. C, p. 31, Rollo).

Since his dismissal was for just causes, Singian is not entitled to separation pay or the salaries for the unexpired portion of his contract. He is entitled only to his unpaid salary for September 1 to 15, 1984.

However, the NLRC and the POEA were correct in finding that Singian’s dismissal was effected without due process, i.e., without written notice to him of the charges against him and without a formal investigation where he could have defended himself personally or through a representative.

For failure to comply with the requirements of due process in terminating Singian’s services, the petitioners are solidarily liable to indemnify him in the sum of P1,000 as damages, conformably with the decision of this Court in *Wenphil Corporation vs. NLRC, et al.*, G.R. No. 80587, Feb. 8, 1989 where We ruled:

“Where the private respondent, who appears to be of violent temper, caused trouble during office hours and even defied his superiors as they tried to pacify him, he should not be rewarded with re-employment and back wages. It may encourage him to do even worse and will render a mockery of the rules of discipline that employees are required to observe. Under the circumstances, the dismissal of the private respondent for just

cause should be maintained. He has no right to return to his former employment.

“However, the petitioner must nevertheless be held to account for failure to extend to private respondent his right to an investigation before causing his dismissal. The rule is explicit as above discussed. The dismissal of an employee must be for just or authorized cause and after due process. Petitioner committed an infraction of the second requirement. Thus, it must be imposed a sanction for its failure to give a formal notice and conduct an investigation as required by law before dismissing petitioner from employment. Considering the circumstances of this case petitioner must indemnify the private respondent the amount of P1,000.00, the measure of this award depends on the facts of each case and the gravity of the omission committed by the employer.”

WHEREFORE, the Petition for *Certiorari* is granted. The Decision of the NLRC ordering the petitioners to pay Singian US\$7,150.00 as the salaries corresponding to the unexpired portion of his contract and attorney’s fees, is set aside. Petitioners are ordered to pay solidarily to private respondent Romeo Singian his unpaid salary of US\$800 for the period of September 1-14, 1984 and an indemnity of P1,000. No pronouncement as to costs.

SO ORDERED.

Narvasa, Cruz and Medialdea, JJ., concur.
Gancayco, J., On leave.